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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211736
Party	Plaintiff Kittrich Corporation
Correspondence Address	MARK CALKINS KITTRICH CORPORATION 14555 ALONDRA BLVD LA MIRADA, CA 90638 UNITED STATES markc@kittrich.com, kevinr@kittrich.com
Submission	Motion for Default Judgment
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Signature	//Mark A. Calkins//
Date	09/04/2013
Attachments	TTAB 91211736 - Motion for Default Judgment 090413.pdf(161077 bytes )

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3 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
4 **TRADEMARK TRIAL AND APPEAL BOARD**

5 Kittrich Corporation

6 Opposer,

7 vs.

8 Little Twigs, LLC

9 Applicant.

Trademark Application

Mark: LITTLE TWIGS BABY CHILD MAMA

Serial No. 85/659719

Filed: June 23, 2012

Published: July 23, 2013

Opposition No.: 91211736

10  
11 **MOTION FOR DEFAULT JUDGMENT**

12 COMES NOW the Opposer, Kittrich Corporation, pursuant to 37 C.F.R. §2.106(a) and Fed.  
13 R. Civ. P. 55, and moves for a default judgment against the Applicant, Little Twigs, LLC. Applicant  
14 has failed to file an Answer to the Notice of Opposition during the time allowed therefor.

15  
16 **MEMORANDUM OF LAW**

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18 **I. BACKGROUND.**

19 Opposer Kittrich Corporation is a consumer products company who is the owner of  
20 numerous marks that are used in the promotion of the LITTLE TWIG brand, which are registered  
21 on the Principal Register of the United States Patent and Trademark Office. U.S. Reg. No.  
22 3,121,155 – for the standard character mark LITTLE TWIG – was registered on July 25<sup>th</sup>, 2006 in  
23 IC 03 for “Cosmetics and soaps, namely skin bathing and cleaning solutions, shampoos and  
24 lotions.” Moreover, U.S. Reg. No. 3,540,114 – for the design mark LITTLE TWIG NURTURING  
25 FAMILIES ORGANICALLY – was registered on December 2<sup>nd</sup>, 2008 in IC 03 for “Baby lotion;  
26 Baby oils; Baby Powder; Cosmetic soaps; Hair conditioners for babies; Shampoos for babies;  
27 Baby shampoo; Bath lotion; Face and body lotions; Hair shampoos and conditioners; Hand

1 lotions; Liquid soaps for hands, face and body.”

2 Opposer acquired ownership of the LITTLE TWIG Marks on or about December 23<sup>rd</sup>,  
3 2010 by virtue of a licensing and purchasing agreement regarding the assets of Little Twig, Inc.  
4 U.S. Trademark Reg. Nos. 3,121,155 for LITTLE TWIG, and 3,540,114 for LITTLE TWIG  
5 NURTURING FAMILIES ORGANICALLY, were assigned to the benefit of Kittrich Corporation  
6 after completion of the asset purchase agreement, and recorded with the USPTO on December  
7 31<sup>st</sup>, 2012.

8 On June 23<sup>rd</sup>, 2012, Applicant filed to register the proposed design mark LITTLE TWIGS  
9 BABY CHILD MAMA, Serial No. 85/659719, in IC 35 for “Retail clothing boutiques; Retail  
10 furniture stores; Retail store services featuring green and eco-friendly products in the nature of  
11 children[']s clothing[,] furniture, toys and goods” claiming use in commerce as early as  
12 September 1<sup>st</sup>, 2009.

13 On July 24<sup>th</sup>, 2013, Opposer timely filed its Notice of Opposition, No. 91211736, and  
14 forwarded a copy of the Notice of Opposition to the Applicant via Certified Mail to the stated  
15 Correspondence Address of record in U.S. Serial No. 85/659719.

16 On July 24<sup>th</sup>, 2013, the Board mailed an Order to the Applicant stating that an Answer to  
17 the Notice of Opposition was due forty (40) days after the mailing date of such Order. As forty  
18 days from the Board’s Order fell on Labor Day, September 2<sup>nd</sup>, 2013, the due date for Applicant’s  
19 filing of an Answer, therefore, was September 3<sup>rd</sup>, 2013.

20 On July 29<sup>th</sup>, 2013, the Opposer received notice from the U.S. Postal Service that the  
21 Certified Mailing of the Notice of Opposition was refused by Applicant on July 26<sup>th</sup>, 2013, and  
22 Opposer filed Notice of Ineffective Service with the Board on July 29<sup>th</sup>, 2013. Opposer had no  
23 other information regarding the location or whereabouts of the Applicant other than the  
24 Correspondent Information recited within U.S. Ser. No. 85/659719.

25 On September 3<sup>rd</sup>, 2013, Applicant filed a Change of Correspondence Address with the  
26 U.S. Trademark Office, but failed to file a Motion to Extend the Time to File an Answer to the  
28 Notice of Opposition. To date, no Answer has been filed by Applicant, nor has Applicant sought  
29 any additional extension of time.

1 **II. DEFAULT JUDGMENT SHOULD BE ENTERED.**

2 Trademark Rule 2.106(a) provides that "If no answer is filed within the time set, the  
3 opposition may be decided as in case of default." 37 C.F.R. §2.106(a). See also Fed. R. Civ. P. 55.  
4 Under these rules, "the failure to answer is all that is necessary to support [default] judgment." Old  
5 Grantian Co. v. William Grant & Sons Ltd., 150 USPQ 58, 60 (CCPA 1966).

6 The opposition defendant that "fails to file a timely answer is in 'default' once the due date  
7 for the answer has passed." Paolo's Assocs. Ltd. v. Bodo, 21 USPQ2d 1899, 1901 (Comm'r Pat.  
8 1990). In such a case, the Board may issue a Notice of Default, or alternatively, the party in the  
9 position of "plaintiff" may move for entry of a default judgment. Old Grantian, 150 USPQ at 60.

10 Applicant has wholly failed to answer, thereby failing to answer within the time set by the  
11 Board. Accordingly, a judgment of default should be entered against Applicant.

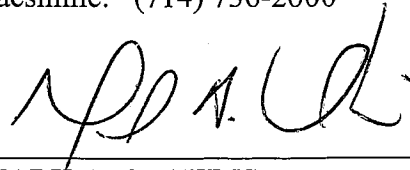
12 **III. CONCLUSION.**

13 In light of the foregoing, Opposer respectfully requests that default judgment be entered  
14 against Applicant in accordance with §2.106(a) of the Trademark Rules.

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16 Date: September 4<sup>th</sup>, 2013

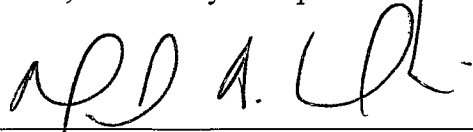
Respectfully submitted,

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24   
25 \_\_\_\_\_  
26 MARK A. CALKINS  
27 Vice President  
28 Kittrich Corporation  
29

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Default Judgment is being deposited with the United States Postal Service first class certified mail, return receipt requested, postage prepaid, in an envelope addressed to the Applicant at: Lisa Julian, Little Twigs, LLC, 1317 Cabrillo Ave., Venice, California, 90291, this 4<sup>th</sup> day of September 2013.



Mark A. Calkins